

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA

vs.

(1) Michael J. Badgett
Defendant

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§
§

Criminal No.: SA:17-CR-00031(1)-XR

MEMORANDUM AND RECOMMENDATION

Pursuant to the referral by the district judge, the defendant, defendant's attorney and the attorney for the government appeared before the undersigned magistrate judge on **January 31, 2017**, for the purpose of defendant's entry of a plea of guilty. At that time defendant entered a guilty plea as stated in the record. The magistrate judge addressed the defendant personally in open court and, after assuring that defendant was competent to proceed and had consented to pleading guilty before a magistrate judge, admonished the defendant in accordance with Rule 11, Fed.R.Crim.P., of the nature of the charge, the possible penalties, defendant's constitutional and statutory rights, and the consequences of pleading guilty. Defendant acknowledged understanding these admonishments. The undersigned also addressed defendant concerning the voluntariness of the guilty plea. Finally, the undersigned assured the existence of a factual basis for the guilty plea. Based upon the answers to the court's questions from defendant and from counsel, the magistrate judge makes the following findings:

1. the defendant is competent to stand trial;
2. the defendant has consented to plead guilty before a magistrate judge;
3. the defendant fully understands the nature of the charge and the penalties;
4. the defendant understands defendant's constitutional and statutory rights and desires to waive them;
5. the defendant's plea is freely, knowingly and voluntarily made; and
6. there is a factual basis for the plea.

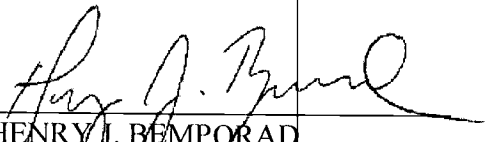
RECOMMENDATION

It is, therefore, the recommendation of the Magistrate Judge that the guilty plea be **ACCEPTED** and that a judgment of guilt be entered against defendant.

**Instructions for Service and
Notice of Right to Appeal / Object**

The United States District Clerk shall serve a copy of this Memorandum and Recommendation on all parties either (1) electronic transmittal to all parties represented by an attorney registered as a Filing User with the Clerk of Court pursuant to the Court's Procedural Rules for Electronic Filing in Civil and Criminal Cases; or (2) by certified mail, return receipt requested, to any party not represented by an attorney registered as a Filing User. Pursuant to Title 28 U.S.C. Section 636 (b) (1) and Rule 59(b)(2), Fed.R.Crim.P., any party who desires to object to this report must serve and file written objections to the Memorandum and Recommendation within 14 days after being served with a copy unless this time period is modified by the district court. A party filing objections must specifically identify those findings, conclusions or recommendations to which objections are being made and the basis for such objections; the district court need not consider frivolous, conclusive or general objections. ***Such party shall file the objections with the clerk of court, and serve the objections on all other parties and the magistrate judge.*** A party's failure to file written objections to the proposed findings, conclusions and recommendations contained in this report shall bar the party from a de novo determination by the district court. See *Thomas v. Arn*, 474 U.S. 140, 150, 106 S.Ct. 466, 472, 88 L.Ed.2d 435 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation contained in this Memorandum and Recommendation within 14 days after being served with a copy shall bar the aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

SIGNED January 31, 2017.


HENRY J. BEMPORAD
U.S. MAGISTRATE JUDGE

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Main Document, No Attachments

Created By:
Granados-Ramos, Monica

Route To:
Granados-Ramos, Monica

Document Description:
Order:setting conditions

Case Number:
SA:17-CR-00031

Judge:
Rodriguez, Xavier



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA

§

**ORDER SETTING CONDITIONS OF RELEASE
OF DEFENDANT OR MATERIAL WITNESS**

vs.

§

§

Case Number: SA:17-CR-00031(1)-XR

§

(1) Michael J. Badgett

§

Defendant

IT IS ORDERED that the release of the defendant/material witness is subject to the following conditions:

- (1) The defendant/material witness shall not commit any offense in violation of federal, state or local law while on release in this case. The defendant/material witness shall report as soon as possible, to Pretrial Services or supervising officer, any contact with any law enforcement personnel including, but not limited to, any arrest, questioning, or traffic stop.
- (2) The defendant/material witness shall immediately advise the court, defense counsel and the U.S. Attorney in writing before any change in address and telephone number.
- (3) The defendant/material witness shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant/material witness shall appear at (if blank, to be notified)

U.S. Courthouse, Courtroom C, 655 East Cesar E. Chavez Boulevard, SAN ANTONIO, Texas

Place

on

Date and Time

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant/material witness be released provided that:

- () (4) The defendant/material witness promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- (X) (5) The defendant/material witness executes an unsecured bond binding the defendant/material witness to pay the United States the sum of Fifty Thousand dollars (\$ 50,000.00) in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant/material witness and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant/material witness is subject to the conditions marked below:

- () (6) The defendant/material witness is placed in the custody of:

(Name of person or organization)

(Address)

(City and state)

(Phone)

who agree (a) to supervise the defendant/material witness in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant/material witness at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant/material witness violates any conditions of release or disappears.

Signed:

*Custodian or Proxy**Date*

Signed:

*Custodian or Proxy**Date*

DISTRIBUTION: COURT DEFENDANT/MATERIAL WITNESS U.S. MARSHAL

Additional Conditions of Release (cont.)

(X) (7) The defendant/material witness shall:

(X) (a) report to Pretrial Services as directed.

() (b) report to the _____
telephone number _____, no later than _____(X) (c) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property: \$50,000.00 UNSECURED

() (d) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described: _____

() (e) execute a bail bond with solvent sureties in the amount of \$ _____

(X) (f) maintain or actively seek verifiable employment.

() (g) maintain or commence an education program.

(X) (h) surrender any passport to Pretrial Services as directed, or: _____

(X) (i) obtain no passport.

(X) (j) abide by the following restrictions on personal association, place of abode, or travel: Reside at residence approved by Pretrial Services; Travel restricted to the Western District of Texas and the Middle District of Florida.

() (k) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: _____

() (l) undergo medical or psychiatric treatment and/or remain in an institution as follows: _____

() (m) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s): _____

() (n) reside at a Community Corrections facility as designated by Pretrial Services; abide by all conditions and requirements of the facility until terminated by the facility director or Pretrial Services; and remain in custody until space becomes available, and the Appearance Bond is signed; or, if a material witness, reside with a third-party custodian as approved by Pretrial Services, in lieu of residing at a Community Corrections facility.

() (o) refrain from possessing a firearm, destructive device, or other dangerous weapon.

() (p) refrain from () any () excessive use of alcohol.

() (q) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. §802, unless prescribed by a licensed medical practitioner.

() (r) submit to substance abuse treatment which will include evaluation and testing, as well as education, in-patient or out-patient treatment, and/or participation in support groups (such as AA/NA).

() (s) at the discretion of the Pretrial Services, submit to substance abuse treatment which may include evaluation, testing, education, in-patient or out-patient treatment, and/or participation in support groups (such as AA/NA).

() (t) the defendant shall submit to any method of testing required by the Pretrial Services Office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

() (u) have installed on your vehicle an ignition interlock system as directed by Pretrial Services; drive no other vehicle while on pretrial release; abide by all conditions and requirements of the ignition interlock system program; and not disconnect the ignition interlock system without prior permission from Pretrial Services.

() (v) participate in one of the following home confinement program components and abide by all the requirements of the program which () will or () will not include electronic monitoring or other location verification system. Location verification systems require that you maintain a telephone at your residence without "call waiting," a modem, "call forwarding," "caller ID" or cordless telephones; wear a tracking device as directed by Pretrial Services and follow all procedures specified by Pretrial Services, and comply with all conditions and requirements of the "Home Confinement Program."

() (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by Pretrial Services or supervising officer.() (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by Pretrial Services or supervising officer.() (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by Pretrial Services or supervising officer.

() (w) The following person(s) sign as surety on the Appearance Bond: _____

() (x) _____

() (y) _____

() (z) _____

() (aa) _____

() (bb) _____

- (8) IT IS FURTHER ORDERED that the defendant/material witness shall be responsible for any costs of participation in court-ordered programs based on his/her ability to pay as determined by Pretrial Services, and make timely payment if required by any "Order Directing Payment of Attorney's Fees."
- (9) IT IS FURTHER ORDERED that if the Court has ordered herein any testing, such as substance testing, or monitoring, such as electronic monitoring, the defendant/material witness shall refrain from obstructing or attempting to obstruct or tamper in any fashion with the efficiency and accuracy of such testing and devices.

Advice of Penalties and Sanctions

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

DEFENDANTS:

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than 15 years or more, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

MATERIAL WITNESSES:

If after release, you knowingly fail to appear as required by the conditions of release, you may be prosecuted for failing to appear and may be fined not more than \$100,000 and imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

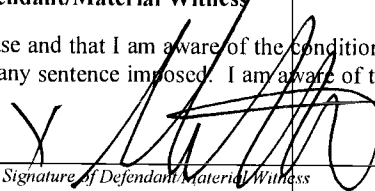
Acknowledgement of Defendant/Material Witness

I acknowledge that I am the defendant/material witness in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

AGREED, IF APPLICABLE

Assistant U.S. Attorney

Attorney for Defendant/Material Witness



Signature of Defendant/Material Witness

****AS APPROVED BY PRETRIAL SERVICES**

Address

City and State

Telephone

Social Security Number

Date of Birth

Directions to United States Marshal

- ☒ The defendant/material witness is ORDERED released after processing.
- ☐ The United States Marshal is ORDERED to keep the defendant/material witness in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant/material witness shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

01/31/2017

Date



HENRY J. BEMPORAD
U.S. MAGISTRATE JUDGE

Barcode Version 2.1.0

Main Document, No Attachments

Created By:
Granados-Ramos, Monica

Route To:
Granados-Ramos, Monica

Document Description:
Other:appearance bond

Case Number:
SA:17-CR-00031

Judge:
Rodriguez, Xavier



Filed

1-31-17

Clerk, U.S. District Court

Western District of Texas

By

Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA

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vs.

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Case Number: SA:17-CR-00031(1)-XR

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(1) Michael J. Badgett

§

Defendant

APPEARANCE BOND**Defendant's Agreement**

I **(1) Michael J. Badgett** (defendant), agree to follow every order of this court, or any court that considers this case, and I further agree that this bond may be forfeited if I fail:

- ☒ to appear for court proceedings;
☒ if convicted, to surrender to serve a sentence that the court may impose; or;
☒ to comply with all conditions set forth in the Order Setting Conditions of Release.

Type of Bond

- ☐ (1) This is a personal recognizance bond.
- ☒ (2) This is an unsecured bond of \$ 50,000.00.
- ☐ (3) This is a secured bond of \$ _____, secured by:
- ☐ (a) \$ _____, in case deposited with the court.
- ☐ (b) the agreement of the defendant and each surety to forfeit the following cash or other property (describe the cash or other property, including claims on it - such as a lien, mortgage, or loan - and attach proof of ownership and value):

- If this bond is secured by real property, documents to protect the secured interest may be filed of record.
- ☐ (c) a bail bond with a solvent surety (attach a copy of the bail bond, or describe it and identify the surety):

Forfeiture or Release of the Bond

Forfeiture of the Bond. This appearance bond may be forfeited if the defendant does not comply with the above agreement. The court may immediately order the amount of the bond surrendered to the United States, including the security for the bond, if the defendant does not comply with the agreement. At the request of the United States, the court may order a judgment of forfeiture against the defendant and each surety for the entire amount of the bond, including interest and costs.

Release of the Bond. The court may order this appearance bond ended at any time. This bond will be satisfied and the security will be released when either: (1) the defendant is found not guilty on all charges, or (2) the defendant reports to serve a sentence.

Declarations

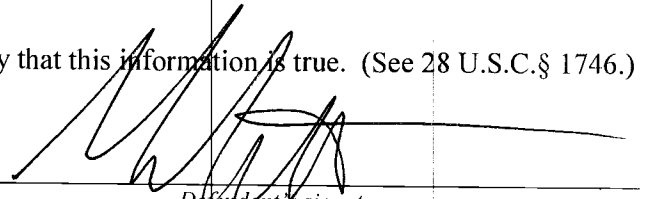
Ownership of the Property. I, the defendant – and each surety – declare under penalty of perjury that:

- (1) all owners of the property securing this appearance bond are included on the bond;
- (2) the property is not subject to claims, except as described above; and
- (3) I will not sell the property, allow further claims to be made against it, or do anything to reduce its value while this appearance bond is in effect.

Acceptance. I, the defendant – and each surety – have read this appearance bond and have either read all the conditions of release set by the court or had them explained to me. I agree to this Appearance Bond.

I, the defendant – and each surety – declare under penalty of perjury that this information is true. (See 28 U.S.C. § 1746.)

Date: 01/31/2017


 Defendant's signature

Surety/property owner – printed name

Surety/property owner – signature and date

Surety/property owner – printed name

Surety/property owner – signature and date

Surety/property owner – printed name

Surety/property owner – signature and date


CLERK OF COURT

Date: 01/31/2017

Signature of Clerk or Deputy Clerk

Approved.

Date: 01/31/2017


 Judge's signature